UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

September 11, 2013

Lt. Colonel John T. Litz
District Engineer
Attn: Mr. Stephen Brumagin
U.S. Army Corps of Engineers
69A Hagood Avenue
Charleston, South Carolina 29403-5107

Subject: I-73 SAC 2008-1333-DIS

Dear Colonel Litz:

This letter is in response to your request for comments on the above referenced joint public notice (JPN). The South Carolina Department of Transportation (Applicant) seeks a permit to perform mechanized land clearing, excavation and the discharge of fill material, in waters of the U.S. to construct a new four lane limited access highway as part of the proposed I-73 interstate system, approximately 80 miles in length, and located in Marlboro, Dillon, Marion and Horry Counties, South Carolina. The project will permanently impact a total of 293.4 acres of wetlands and 4,643 linear feet (LF) of stream.

The U.S. Environmental Protection Agency Region 4 has reviewed the applicant's responses to our previous comment letters and we continue to have concerns about the proposed mitigation plan. As background, our concerns with the wetlands portion of the applicant's compensatory mitigation plan were previously documented in letters dated March 28, 2011, April 28, 2011 and January 7, 2013. We are still awaiting the applicant's response to our concerns with the wetland mitigation plan. The EPA has reviewed the applicant's stream mitigation plan dated July 24, 2013 and has the following comments.

The applicant's permittee-responsible stream mitigation plan is referred to as the Long Branch Mitigation Plan and is located approximately 6.2 miles from the applicant's preferred project site. The proposed mitigation site will restore approximately 2,543 LF of stream and enhance approximately 4,867 LF of stream along Long Branch, enhance approximately 5,565 LF of stream along Indian Pot Branch and restore approximately 1,632 LF along two unnamed tributaries (UT1 and UT2) that flow into Long Branch.

Using the U.S. Army Corps of Engineers (USACE) Charleston District 2010 Guidelines for Preparing a Compensatory Mitigation Plan Standard Operation Plan (SOP), the applicant calculates that 22,640 stream credits are required to compensate for the proposed stream impacts. The cumulative impact factor was calculated for each 11-digit HUC in which the impacts occur. The EPA appreciates that impacts are calculated for each watershed to more accurately capture mitigation needs. However, the SOP specifically states that the cumulative impact factor should be calculated for the total impacts of an entire project. Therefore, the EPA recommends these calculations be corrected by applying the appropriate factor.

While the EPA believes the proposed mitigation site has potential to generate stream mitigation credits, we have significant concerns with the plan as currently proposed. Our most significant concern is the lack of control the applicant will have on the stream reach. Over 4,000 LF of the project will only have protection and adequate riparian buffer on one bank of the stream due to current landowners being unwilling to participate in a conservation easement. This limits the ability of the applicant to ensure restoration and enhancement of the stream is successful. The applicant proposes to improve water quality and to enhance the riparian vegetation by planting desirable species and removing exotic, invasive species. All of these plans could be compromised by activities in the uncontrolled, riparian corridor.

The EPA also has concerns with water quality on the mitigation site and the lack of an adequate water quality monitoring plan. The proposed streams enter the site via highly impacted tributaries from agricultural fields. There are also multiple ditches from agricultural areas which drain into the streams. We recommend a robust monitoring plan including stations where the streams enter and exit the site, at all confluences on site and at the point of discharge of all drainage ditches into mitigation streams. We recommend collecting baseline data at these stations as well as collecting data throughout the monitoring period.

The proposed mitigation plan also lacks definitive performance standards tied to stated objectives. The applicant states that water quality improvement is an objective of the proposed mitigation. However, there are no performance standards to measure the success of meeting this objective. Exotic plant removal is a major component of the applicant's vegetation enhancement plan but it also lacks a performance standard to measure success. We recommend that exotic plant removal be considered successful if exotic vegetation remains below 1 percent of the total vegetation cover for the length of the monitoring period. While the applicant provides planting survival performance standards, there are no standards to measure the success of maintaining the species diversity of the planting plan. The applicant states that many factors will be visually monitored, including: bank stability, condition of in-stream structures, channel migration, headcuts, live stake mortality, impacts from invasive plant species or animal species and condition of pools and riffles. It is unclear if performance standards will be established for these factors, thus more details are needed.

Based on the above observations, the EPA has determined that the project, as currently proposed, does not have an adequate compensatory mitigation plan and therefore is inconsistent with the Section 404(b)(1) Guidelines and the 2008 Mitigation Rule. Thank you for the opportunity to review and comment on this JPN. If you have any questions regarding these comments, please contact Mr. Kelly Laycock, (Laycock.Kelly@epa.gov or (404) 562-9132) or myself at (able.tony@epa.gov or (404) 562-9273).

Sincerely,

Rosemary C Hall

for Tony Able
Chief
Wetlands Regulatory Section